

C O P Y

76-34

1954

June 3

Alfred S. Cloues, State Treasurer
Treasury Department
State House
Concord, New Hampshire

Dear Sir:

Under date of May 19, 1954 you state that the costs of suppressing a forest fire in the unincorporated place of Success during the months of July and August, 1952 were in the amount of \$70,328.24. You then refer to Revised Laws, chapter 233, section 31 and to Revised Laws, chapter 233, section 31 as amended by Laws 1953, chapter 187, and inquire whether, in assessing against the property owners in Success their share of the costs of suppression, the assessment should be to the extent of fifty per cent of such costs or, rather, the assessment should be limited to an amount equal to ten per cent of the assessed valuation of the property within the unincorporated place. We advise that the assessment should be to the extent of fifty per cent of the suppression costs.

By Revised Laws, chapter 233, section 31 prior to amendment, suppression costs in unorganized places were borne equally by the State and the place, the State paying the total bill in the first instance and reimbursement being had in the amount of fifty per cent through the device of adding such an amount to the tax assessed against the property in the place the following year. By Laws 1953, chapter 187, Revised Laws, chapter 233, section 31 was amended; for the present discussion the only change of importance resulting from the amendment was in limiting the amount of reimbursement to the State to an amount not exceeding ten per cent of the assessed valuation of the property in the place. Laws 1953, chapter 187 was approved on May 28, 1953; by its terms it took effect upon its passage.

It is well settled in this State with respect to cities and towns that property taxes are assessed as of April first in each year. Property becomes liable for the tax thereon at that date. There is nothing to indicate that a different rule applies with respect to unincorporated places, save the reference to July 1 in Revised Laws, chapter 81, section 1. We cannot deem this reference to set a different assessment date for unincorporated places as compared with incorporated municipalities. In our opinion the assessment date and tax year are the same -- April 1 -- whether the place be incorporated or not. July 1 is merely the date upon which the Treasurer is directed to perform merely a ministerial act.

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Alfred S. Cloues, State Treasurer

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In the year 1953, therefore, the assessment date was April 1, 1953. While the Treasurer could not properly send out tax bills with respect to property in unincorporated places until July 1, tax liability became fixed upon April 1. That liability, insofar as the costs of forest fire suppression were involved, was to the extent of fifty per cent of such costs. The later action of the Legislature, effective on May 28, 1953, did not in terms alter this liability; indeed, insofar as legislative intention may be gleaned from extraneous sources, the legislative intention was to the contrary. The 1953 amendment was originally introduced into the Legislature as House Bill No. 75. While House Bill No. 75 was considerably different from the law as ultimately enacted, it contained a ten per cent limitation similar to that in the present law, and provided that such limitation should apply in all cases "where such expenses have been incurred since April 1952." Such clause does not appear in the present act; along with the rest of the original House Bill No. 75 it was deliberately stricken, See Journal of the House, 1953, pages 536 - 537. The substituted bill -- which later became the law -- contained the ten per cent limitation, but it did not contain a reference to April 1, 1952. This action on the part of the Legislature is, in our opinion, significant on the question of legislative intent as to the application of the ten per cent limitation.

In the circumstances we advise, then, that the tax assessed against the property in Success on account of the forest fire suppression costs incurred in July and August, 1952 should be sufficient to reimburse the State to the extent of fifty per cent of such costs.

Very truly yours,

Warren E. Waters
Deputy Attorney General

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